

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

PHILIP J. POHL

§

v.

§

CIVIL ACTION NO. 9:08cv170

RICHARD K. ALFORD

§

MEMORANDUM OPINION AND ORDER OF REMAND

The Plaintiff Philip Pohl, proceeding *pro se*, filed this lawsuit in the 258th Judicial District Court of Polk County, Texas, complaining of alleged violations of his rights. On August 28, 2008, Pohl filed a notice of removal, seeking to remove the lawsuit to federal court. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Pohl argued that the issues presented in his state court lawsuit also implicated federal law. After review of the pleadings, the Magistrate Judge issued a Report recommending that the case be remanded to the state court. The Magistrate Judge observed that the removal of cases from state court to federal court is a privilege reserved to defendants, and that Pohl, as the plaintiff in the state-court case, could not remove his own lawsuit to federal court.

Pohl filed objections to the Magistrate Judge's Report on September 18, 2008. In his objections, Pohl states that he had the belief that "the removal procedure was allowed to anyone with unjust results before a state tribunal." As the Magistrate Judge correctly set out, this is not correct; removal of a state court lawsuit may only be done by the defendant in that lawsuit. Pohl appears to believe that the removal procedure is in effect a substitute for an appeal from an adverse ruling in state court to the federal district court, which is also improper; the Fifth Circuit has held that litigants may not obtain review of state court actions by filing complaints about those actions in lower federal

courts, cast in the form of civil rights lawsuits. Hale v. Harney, 786 F.2d 688, 690-91 (5th Cir. 1986). Judicial errors committed in state courts are for correction in state court systems, at the head of which stands the United States Supreme Court; such errors are no business of the lower federal courts. Hale, 786 F.2d at 691. If Pohl is dissatisfied with the results which he has achieved in the Texas state courts, his proper avenue of redress was with the state appellate court system, not the federal district courts. Pohl's objections are without merit.

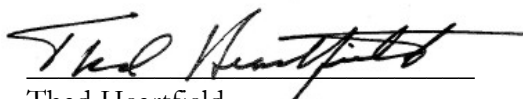
The Court has conducted a careful *de novo* review of the pleadings and documents in this case, including the Plaintiff's notice of removal and state court complaint, the Report of the Magistrate Judge, the Plaintiff's objections thereto, and all other pleadings, documents, and records in the case. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Plaintiff's objections are without merit. It is accordingly

ORDERED that the Plaintiff's objections are overruled and the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is REMANDED to the 258th Judicial District Court of Polk County, Texas, for such other and further proceedings as that Court may deem proper. Finally, it is

ORDERED that all motions currently pending in this case are hereby DENIED without prejudice to their being refiled in the course of the state court proceedings.

SIGNED this the **16** day of **October**, **2008**.


Thad Heartfield
United States District Judge